

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 AMENDED

5 February 21, 2019

6

7

H. 3659

8

9 Introduced by Reps. McCoy, Rose, Ballentine, Wooten,
10 W. Newton, Mack, Sottile, Clary, Erickson, Herbkersman,
11 Pendarvis, Stavrinakis, Ott, Gilliard, Bennett, Caskey, Murphy,
12 Bernstein, Mace, Young, Garvin, Cobb-Hunter, Norrell, Thigpen,
13 Hyde, Jefferson, R. Williams, Funderburk, Huggins, Anderson,
14 Hardee, Cogswell, Tallon, Sandifer, West, Gagnon, Forrester,
15 Blackwell, Spires, Calhoon, B. Cox, Elliott, Morgan, Loftis,
16 Bradley, Willis, Toole, Henderson-Myers, B. Newton and Daning

17

18 S. Printed 2/21/19--H.

[SEC 2/22/19 3:09 PM]

19 Read the first time January 17, 2019.

20

21

[3659-1]

1
2
3
4
5
6
7
8
9 **A BILL**

10
11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, TO ENACT THE "SOUTH CAROLINA ENERGY
13 FREEDOM ACT" BY ADDING SECTION 58-27-845 SO AS TO
14 ENUMERATE SPECIFIC RIGHTS OWED TO EVERY
15 ELECTRICAL UTILITY CUSTOMER IN SOUTH CAROLINA;
16 BY ADDING SECTION 58-27-2350 SO AS TO PROVIDE FOR
17 JUDICIAL REVIEW OF VIOLATIONS OF AN ELECTRICAL
18 UTILITY CUSTOMER'S RIGHTS; BY ADDING CHAPTER 41
19 TO TITLE 58 SO AS TO DEFINE RELEVANT TERMS, TO
20 REQUIRE PERIODIC HEARINGS TO REVIEW AND
21 APPROVE ELECTRICAL UTILITIES' AVOIDED COST
22 METHODOLOGIES, STANDARD OFFERS, FORM
23 CONTRACTS, AND COMMITMENT TO SELL FORMS, AND
24 TO ESTABLISH POLICIES AND PROCEDURES FOR THESE
25 HEARINGS, TO REQUIRE EACH ELECTRICAL UTILITY TO
26 FILE A VOLUNTARY RENEWABLE ENERGY PROGRAM
27 FOR THE COMMISSION'S REVIEW AND APPROVAL AND
28 TO ENUMERATE PROGRAM REQUIREMENTS, TO
29 REQUIRE EACH ELECTRICAL UTILITY TO ESTABLISH A
30 NEIGHBORHOOD COMMUNITY SOLAR PROGRAM PLAN
31 WITH A GOAL TO EXPAND ACCESS TO SOLAR ENERGY TO
32 LOW-INCOME COMMUNITIES AND CUSTOMERS, AND TO
33 ENUMERATE PROGRAM REQUIREMENTS; TO AMEND
34 SECTION 58-4-10, AS AMENDED, RELATING TO THE
35 OFFICE OF REGULATORY STAFF, SO AS TO REVISE THE
36 DEFINITION OF "PUBLIC INTEREST"; TO AMEND SECTION
37 58-27-460, RELATING TO THE PROMULGATION OF
38 STANDARDS FOR INTERCONNECTION OF RENEWABLE
39 ENERGY, SO AS TO, AMONG OTHER THINGS, INCREASE
40 THE MAXIMUM GENERATION CAPACITY OF THOSE
41 RENEWABLE ENERGY FACILITIES FOR WHICH THE
42 PUBLIC SERVICE COMMISSION SHALL PROMULGATE
43 INTERCONNECTION STANDARDS; TO AMEND SECTION
44 58-27-2610, RELATING TO LEASES OF RENEWABLE

1 ELECTRIC GENERATION FACILITIES, SO AS TO, AMONG
 2 OTHER THINGS, REMOVE THE SOLAR LEASING CAP; TO
 3 AMEND SECTION 58-33-110, RELATING TO REQUIRED
 4 PRECONSTRUCTION CERTIFICATIONS FOR MAJOR
 5 UTILITY FACILITIES, SO AS TO PROVIDE THAT A PERSON
 6 MAY NOT BEGIN CONSTRUCTION OF A MAJOR UTILITY
 7 FACILITY WITHOUT FIRST HAVING MADE A
 8 DEMONSTRATION THAT THE FACILITY HAS BEEN
 9 SELECTED THROUGH AN INDEPENDENTLY MONITORED,
 10 ALL-SOURCE, PROCUREMENT PROCESS OVERSEEN BY
 11 AN INDEPENDENT EVALUATOR CHOSEN BY THE OFFICE
 12 OF REGULATORY STAFF; TO AMEND SECTION 58-33-140,
 13 RELATING TO THE PARTIES TO CERTIFICATION
 14 PROCEEDINGS, SO AS TO PROVIDE THAT THE PARTIES
 15 SHALL INCLUDE ANY INDEPENDENT POWER PRODUCER
 16 THAT IS PROPOSING AN ALTERNATIVE TO THE MAJOR
 17 UTILITY FACILITY; TO AMEND SECTION 58-37-40,
 18 RELATING TO INTEGRATED RESOURCE PLANS, SO AS TO
 19 PROVIDE FOR THE EVALUATION OF THE ADOPTION OF
 20 RENEWABLE ENERGY, ENERGY EFFICIENCY, AND
 21 DEMAND RESPONSE IN INTEGRATED RESOURCE PLANS
 22 AND TO PROVIDE FOR CERTAIN REPORTING
 23 REQUIREMENTS; TO AMEND SECTION 58-40-10,
 24 RELATING TO DEFINITIONS APPLICABLE TO NET
 25 ENERGY METERING, SO AS TO REVISE THE DEFINITION
 26 OF "CUSTOMER-GENERATOR"; AND TO AMEND SECTION
 27 58-40-20, RELATING TO NET ENERGY METERING, SO AS
 28 TO REQUIRE ELECTRICAL UTILITIES TO MAKE NET
 29 ENERGY METERING AVAILABLE TO
 30 CUSTOMER-GENERATORS UNTIL THE TOTAL INSTALLED
 31 NAMEPLATE GENERATING CAPACITY OF NET ENERGY
 32 METERING SYSTEMS EQUALS AT LEAST TWO PERCENT
 33 OF THE PREVIOUS FIVE-YEAR AVERAGE OF THE
 34 ELECTRICAL UTILITY'S SOUTH CAROLINA RETAIL PEAK
 35 DEMAND AND TO PROVIDE FOR A SUCCESSOR NET
 36 ENERGY METERING TARIFF.

37 Amend Title To Conform

38

39 Be it enacted by the General Assembly of the State of South
 40 Carolina:

41

42 SECTION 1. Title 58 of the 1976 Code is amended by adding:

43

44

"CHAPTER 41

45

Renewable Energy Programs

Section 58-41-05. The commission is directed to address all renewable energy issues in a fair and balanced manner, considering the costs and benefits to all customers of all programs and tariffs that relate to renewable energy and energy storage, both as part of the utility's power system and as direct investments by customers for their own energy needs and renewable goals. The commission also is directed to ensure that the revenue recovery, cost allocation, and rate design of utilities that it regulates are just and reasonable and properly reflect changes in the industry as a whole, the benefits of customer renewable energy, energy efficiency, and demand response, as well as any utility or state-specific impacts unique to South Carolina which are brought about by the consequences of this act.

Section 58-41-10. As used in this chapter:

(1) 'AC' means alternating current as measured at the point of interconnection of the small power producer's facility to the interconnecting electrical utility's transmission or distribution system.

(2) 'Avoided costs' means payments for purchases of electricity made according to an electrical utility's most recently approved or established avoided cost rates in this State or rates negotiated pursuant to PURPA, in the year the costs are incurred, for purchases of electricity from qualifying facilities pursuant to Section 210 of the Public Utility Regulatory Policies Act, said costs to be calculated as set forth in Section 58-39-140(A)(1).

(3) 'Commission' means the South Carolina Public Service Commission.

(4) 'Electrical utility' is defined as set forth in Section 58-27-10(7), provided, however, that electrical utilities serving less than one hundred thousand customer accounts must be exempt from the provisions of this chapter. A renewable energy supplier participating in an electrical utility's voluntary renewable energy program pursuant to this chapter must not be considered an electrical utility for purposes of this chapter.

(5) 'Eligible customer' means a retail customer with a new or existing contract demand greater than or equal to one megawatt at a single-metered location or aggregated across multiple-metered locations.

(6) 'Generation credit' means a credit applied by an electrical utility to the bill of a participating customer that is equal to the value of the electrical utility's system of the energy and capacity provided by a renewable energy facility, as defined herein.

1 (7) 'Participating customer' means an eligible customer that
 2 elects to have a portion or all of its electricity needs supplied by a
 3 voluntary renewable energy program.

4 (8) 'Participating customer agreement' means an agreement
 5 between a participating customer, its electrical utility, and the
 6 renewable energy supplier establishing each party's rights and
 7 obligations under the electrical utility's voluntary renewable energy
 8 program.

9 (9) 'Power purchase agreement' means an agreement
 10 between an electrical utility and a renewable energy supplier for the
 11 purchase and sale of energy, capacity, and ancillary services from
 12 the renewable energy supplier's renewable energy facility pursuant
 13 to this chapter.

14 (10) 'PURPA' means the Public Utility Regulatory Policies
 15 Act of 1978, as amended.

16 (11) 'Renewable energy contract' means a contract between an
 17 electrical utility and a renewable energy supplier that commits the
 18 parties to participating in an electrical utility's voluntary renewable
 19 energy program for the purchase and sale of energy and capacity.

20 (12) 'Renewable energy facility' means a facility for the
 21 production of electrical energy that utilizes a renewable generation
 22 resource as defined in Section 58-39-120(F), that is placed in service
 23 after the effective date of this chapter, and for which costs are not
 24 included in an electrical utility's rates.

25 (13) 'Renewable energy supplier' means the owner or operator
 26 of a renewable energy facility, including the affiliate of an electrical
 27 utility that contracts with a participating customer.

28 (14) 'Small power producer' means a person or corporation
 29 owning or operating a 'qualifying small power production facility'
 30 as defined in 16 U.S.C. Section 796, as amended.

31 (15) 'Standard offer' means the avoided cost rates, power
 32 purchase agreement, and terms and conditions approved by the
 33 commission and applicable to purchases of energy and capacity by
 34 electrical utilities as provided in this chapter from small power
 35 producers up to two megawatts AC in size.

36 (16) 'Voluntary renewable energy program' means a tariff
 37 filed with the commission by an electrical utility that enables a
 38 participating customer to receive and pay for electric service, that
 39 reflects the program cost. Commercial or industrial energy and
 40 environmental attributes specified in the participating customer
 41 agreement and renewable energy contract, including a generation
 42 credit for such renewable energy, from the electrical utility pursuant
 43 to the terms of the tariff.

44 (17) 'Neighborhood community solar facility' means a solar
 45 photovoltaic electric generating facility that is connected to the

1 distribution system of the electrical utility and is participating in the
2 electrical utility's neighborhood community solar energy program.

3
4 Section 58-41-20. (A) As soon as practicable after the effective
5 date of this chapter, the commission shall open a docket for the
6 purpose of establishing each electrical utility's avoided cost rates,
7 avoided cost methodologies, standard offer power purchase
8 agreements, form contract power purchase agreements,
9 commitment to sell forms, and any other terms or conditions
10 necessary to implement this section. Within six months after the
11 effective date of this chapter, and at least once every twenty-four
12 months thereafter, the commission shall establish or approve each
13 electrical utility's avoided cost rates, avoided cost methodologies,
14 standard offer power purchase agreements, form contract power
15 purchase agreements, commitment to sell forms, and any other
16 terms or conditions necessary to implement this section. Within
17 such proceeding the commission shall approve one or more standard
18 form purchase power agreements for use for projects not eligible for
19 the standard offer. Such standard form purchase power agreements
20 shall contain, for example, provisions for force majeure,
21 indemnification, choice of venue, and confidentiality provisions and
22 other such terms, but shall not be determinative of price, volume, or
23 length of contract. The commission may approve multiple standard
24 form agreements to accommodate various generation technologies
25 and other project specific characteristics. This provision shall not
26 restrict the right of parties to enter into power purchase agreements
27 with terms that differ from the commission-approved form(s). Any
28 decisions by the commission shall support the public interest of the
29 using and consuming public and strive to reduce the risk placed on
30 the using and consuming public.

31 (1) Proceedings must be separate from the electrical utilities'
32 annual fuel cost proceedings.

33 (2) Proceedings shall include an opportunity for intervention,
34 discovery, filed comments or testimony, and an evidentiary hearing.

35 (3) Each electrical utility's avoided cost rates, avoided cost
36 methodologies, standard offer power purchase agreements, form
37 contract power purchase agreements, commitment to sell forms, and
38 any other terms or conditions set by the commission must be in the
39 best interests of all customers and consistent with PURPA and the
40 Federal Energy Regulatory Commission's implementing
41 regulations, which require such rates to be just and reasonable to the
42 ratepayers of the electrical utility, in the public interest, and
43 nondiscriminatory to the Qualifying Facilities (QF).

44 (B) In the course of reviewing and approving each electrical
45 utility's avoided cost rates, avoided cost methodologies, standard

1 offer power purchase agreements, form contract power purchase
 2 agreements, and commitment to sell forms, the commission shall
 3 treat small power producers on a fair and equal footing with
 4 electrical utility-owned resources by ensuring that:

5 (1) rates for the purchase of energy and capacity fully and
 6 accurately reflect the electrical utility's avoided costs;

7 (2) power purchase agreements, including terms and
 8 conditions, are commercially reasonable and consistent with
 9 regulations promulgated by the Federal Energy Regulatory
 10 Commission implementing PURPA; and

11 (3) each electrical utility's avoided cost methodology fairly
 12 accounts for costs avoided by the electrical utility or incurred by the
 13 utility, including, but not limited to, energy, capacity, and ancillary
 14 services provided by or consumed by small power producers
 15 including those utilizing energy storage equipment. Avoided cost
 16 methodologies proposed by an electrical utility and approved by the
 17 commission may account for differences in costs avoided based on
 18 the geographic location and resource type of a small power
 19 producer's facility.

20 (C) The avoided cost rates offered by an electrical utility to a
 21 small power producer not eligible for the standard offer must be
 22 calculated based on the avoided cost methodology approved by the
 23 commission in its most recent proceeding. In the event that a small
 24 power producer and an electrical utility are unable to mutually agree
 25 on an avoided cost rate, the small power producer shall have the
 26 right to have any disputed issues resolved by the commission in a
 27 formal complaint proceeding. The commission may require
 28 mediation prior to a formal complaint proceeding.

29 (D) A small power producer shall have the right to sell the output
 30 of its facility to the electrical utility at the rates, and pursuant to the
 31 power purchase agreement terms and conditions, then in effect by
 32 delivering an executed notice of commitment to sell form to the
 33 electrical utility. The commission shall approve a standard notice of
 34 commitment to sell form to be used for this purpose that provides
 35 the small power producer a reasonable period of time from its
 36 submittal of the form to execute a power purchase agreement. In no
 37 event, however, shall the small power producer, as a condition of
 38 preserving the pricing and terms and conditions established by its
 39 submittal of an executed commitment to sell form to the electrical
 40 utility, be required to execute a power purchase agreement prior to
 41 receipt of a final interconnection agreement from the electrical
 42 utility.

43 (E)(1) The commission is empowered to set standard offer rates
 44 and terms and conditions for the purchase of power from
 45 cogenerators and small power production facilities designated as

1 QF. The commission also has the authority to provide for
 2 negotiation of contracts and for competitive solicitation to occur
 3 within the utility's balancing authority if the commission determines
 4 such action to be in the public interest.

5 (2) Electrical utilities shall file with the commission power
 6 purchase agreements entered into pursuant to PURPA, resulting
 7 from voluntary negotiation of contracts between an electrical utility
 8 and a small power producer not eligible for the standard offer.

9 (3) The commission is authorized to open a generic docket for
 10 the purposes of creating competitive solicitation programs within
 11 the utility's balancing authority if the commission determines such
 12 action to be for the public good.

13 (4) The commission shall require each electrical utility to
 14 make the standard offer power purchase agreement available to
 15 small power producers. For small power producers not eligible for
 16 the standard offer, the commission shall approve a separate form
 17 contract power purchase agreement to be used by each electrical
 18 utility in purchasing energy, capacity, and other related services
 19 from small power producers.

20 (5)(a) Electrical utilities shall offer to enter into a fixed priced
 21 contract for the purchase of energy and capacity at avoided cost,
 22 with commercially reasonable terms and with a duration of no less
 23 than ten years and of longer duration if set by the commission
 24 pursuant to this section. The avoided cost rates applicable to the
 25 fixed price contract in this section must be based on the avoided cost
 26 rates and methodology as determined by the commission pursuant
 27 to this section. The terms of this subsection apply only to those
 28 projects with an interconnection request on file with the utility prior
 29 to the effective date of this act. Standard offer projects shall not be
 30 impacted by this subsection. The commission may determine any
 31 other necessary terms and conditions as necessary to protect
 32 ratepayers.

33 (b) Upon execution of solar Interconnection Agreements
 34 and Power Purchase Agreements representing twenty percent of the
 35 previous five-year average of the electrical utility's South Carolina
 36 retail peak load, the commission shall reevaluate the appropriate
 37 contract term length for projects that had an interconnection request
 38 on file with the utility prior to the effective date of this act but do
 39 not yet have a signed Interconnection Agreement with the utility.

40 (c) Projects with an interconnection request submitted after
 41 the effective date of this act will be subject to the terms, conditions,
 42 rates, and terms of length for contracts as determined by the
 43 commission. The commission shall hold a proceeding in accordance
 44 with this section to consider the terms, conditions, rates, and terms

1 of length for projects with an interconnection request submitted after
2 the effective date of this act.

3 (6) The commission may consider standard offer and form
4 contract power purchase agreements which prohibit any of the
5 following, but not limited to:

6 (a) uncompensated curtailment of qualifying facilities
7 other than due to a system emergency as defined in PURPA or in
8 implementing regulations promulgated by the Federal Energy
9 Regulatory Commission;

10 (b) termination of the power purchase agreement,
11 collection of damages from small power producers, or
12 commencement of the term of a power purchase agreement prior to
13 commercial operation, if delays in achieving commercial operation
14 of the small power producer's facility are due to the electrical
15 utility's interconnection delays; or

16 (c) the electrical utility from reducing the price paid to the
17 small power producer based on costs incurred by the electrical
18 utility to respond to the intermittent nature of electrical generation
19 by the small power producer.

20 (F) Nothing in this section prohibits the commission from
21 adopting various avoided cost methodologies or amending those
22 methodologies in the public interest.

23 (G) Unless otherwise agreed to between the electrical utility and
24 the small power producer, a power purchase agreement entered into
25 pursuant to PURPA may not allow curtailment of qualifying
26 facilities in any manner that is inconsistent with PURPA or
27 implementing regulations promulgated by the Federal Energy
28 Regulatory Commission.

29 (H) The commission and Office of Regulatory Staff are
30 authorized to independently employ, through contract or otherwise,
31 third-party consultants and experts in carrying out their duties under
32 this section, including, but not limited to, for the purpose of
33 evaluating rates, terms, calculations, and conditions under this
34 section. The commission and the Office of Regulatory Staff may not
35 hire the same third-party consultant or expert. The commission is
36 exempt from complying with the State Procurement Code in the
37 selection and hiring of the third-party consultant or expert
38 authorized by this subsection. The commission shall engage, for
39 each utility, a qualified independent third party to submit a report
40 that includes the third party's independently derived conclusions as
41 to that third party's opinion of each utility's calculation of avoided
42 costs for purposes of these proceedings. The qualified independent
43 third party is subject to the same ex parte prohibitions contained in
44 Chapter 3, Title 58, as all other parties. The qualified independent
45 third party shall submit all requests for documents and information

1 necessary to their analysis under the authority of the commission
 2 and the commission shall have full authority to compel response to
 3 the requests. The qualified independent third party's duty will be to
 4 the commission. Any conclusions based on the evidence in the
 5 record and included in the report are intended to be used by the
 6 commission along with all other evidence submitted during the
 7 proceeding, to inform their ultimate decision setting the avoided
 8 costs for each electrical utility. The utilities may require
 9 confidentiality agreements with the independent third party that do
 10 not impede the third-party analysis. The utilities shall be responsive
 11 in providing all documents, information, and items necessary for the
 12 completion of the report. The independent third party shall also
 13 include in the report a statement assessing the level of cooperation
 14 received from the utility during the development of the report and
 15 whether there were any material information requests that were not
 16 adequately fulfilled by the electrical utility. Any party to this
 17 proceeding shall be able to review the report including the
 18 confidential portions of the report upon entering into an appropriate
 19 confidentiality agreement.

20 (I) Each electrical utility's avoided cost filing must be
 21 reasonably transparent so that underlying assumptions, data, and
 22 results can be independently reviewed and verified by the parties
 23 and the commission. The commission may approve any
 24 confidentiality protections necessary to allow for independent
 25 review and verification of the avoided cost filing.

26 (J) This section shall not be interpreted to supersede the
 27 conditions of any settlement entered into before the commission
 28 prior to the adoption of this act.
 29

30 Section 58-41-30. (A) Within one hundred twenty days of the
 31 effective date of this chapter, subject to subsection (F), each
 32 electrical utility shall file a proposed voluntary renewable energy
 33 program for review and approval by the commission. The
 34 commission shall conduct a proceeding to review the program and
 35 establish reasonable terms and conditions for the program.
 36 Interested parties shall have the right to participate in the
 37 proceeding. The commission may periodically hold additional
 38 proceedings to update the program. At a minimum, the program
 39 shall provide that:

40 (1) the participating customer shall have the right to select the
 41 renewable energy facility and negotiate with the renewable energy
 42 supplier on the price to be paid by the participating customer for the
 43 energy, capacity, and environmental attributes of the renewable
 44 energy facility and the term of such agreement so long as such terms

1 are consistent with the voluntary renewable program service
2 agreement as approved by the commission;

3 (2) the renewable energy contract, power purchase
4 agreement, and the participating customer agreement must be of
5 equal duration;

6 (3) in addition to paying a retail bill calculated pursuant to the
7 rates and tariffs that otherwise would apply to the participating
8 customer, reduced by the amount of the generation credit, a
9 participating customer shall reimburse the electrical utility on a
10 monthly basis for the amount paid by the electrical utility to the
11 renewable energy supplier pursuant to the participating customer
12 agreement and power purchase agreement, plus an administrative
13 fee approved by the commission; and

14 (4) eligible customers must be allowed to bundle their
15 demand under a single participating customer agreement and
16 renewable energy contract and must be eligible annually to procure
17 an amount of capacity as approved by the commission.

18 (B) The commission may approve a program that provides for
19 options that include, but are not limited both variable and fixed
20 generation credit options.

21 (C) The commission may limit the total portion of each electrical
22 utility's voluntary renewable energy program that is eligible for the
23 program at a level consistent with the public interest and shall
24 provide standard terms and conditions for the participating customer
25 agreement, the power purchase agreement, and the renewable
26 energy contract, subject to commission review and approval.

27 (D) A participating customer shall bear the burden of any
28 reasonable costs associated with participating in a voluntary
29 renewable energy program. An electrical utility may not charge any
30 nonparticipating customers for any costs incurred pursuant to the
31 provisions of this section.

32 (E) A renewable energy facility may be located anywhere in the
33 electrical utility's service territory within the utility's balancing
34 authority.

35 (F) If the commission determines that an electrical utility has a
36 voluntary renewable energy program on file with the commission as
37 of the effective date of this chapter, that conforms with the
38 requirements of this section, the utility is not required to make a new
39 filing to meet the requirements of subsection (A).

40
41 Section 58-41-40. (A) It is the intent of the General Assembly
42 to expand the opportunity to support solar energy and support access
43 to solar energy options for all South Carolinians, including those
44 who lack the income to afford the upfront investment in solar panels
45 or those that do not own their homes or have suitable rooftops. The

1 General Assembly encourages all electric service providers in this
 2 state to consider adopting the neighborhood community solar
 3 program described in this section.

4 (B)(1) Within sixty days after the effective date of this chapter,
 5 the commission shall open a docket for each electrical utility to
 6 review the community solar programs established pursuant to Act
 7 236 of 2014 and solicit status information on existing programs
 8 from the electrical utilities.

9 (2) Within one hundred eighty days after the commission
 10 opens the docket pursuant to item (1), the electrical utilities shall
 11 update their report on their existing programs and to propose new
 12 programs.

13 (3) Within one hundred eighty days of receiving the updated
 14 filing and following the period for notice and opportunity for public
 15 comment and public hearing, the commission shall establish a new
 16 'Community Solar Energy Program' for each electrical utility to
 17 permit customers of an electrical utility to participate in a solar
 18 energy project to allow for a credit to the customer's utility bill
 19 based upon the electricity generated that is attributed to the
 20 customer's participation in the solar energy project.

21 (C) At minimum, the program developed by the commission
 22 shall establish for each utility:

23 (1) a per project capacity limit for individual community solar
 24 energy projects;

25 (2) minimum and maximum aggregate installed capacity of
 26 all community solar energy projects for each electric public utility;

27 (3) a minimum number of participating customers for each
 28 solar energy project;

29 (4) a minimum number of participating customers for each
 30 solar energy project;

31 (5) the value of the credit on each participating customer's
 32 bill;

33 (6) the provision of access to solar energy projects for low and
 34 moderate income customers;

35 (7) standards to ensure the opportunity for residential,
 36 commercial, and tax exempt customers to participate in the
 37 neighborhood community solar program, including residential
 38 customers in multifamily housing;

39 (8) standards and methods to verify solar electric energy
 40 generation on a monthly basis for a solar energy project;

41 (9) standards and an application process for owners of solar
 42 energy projects who wish to be included in the Community Solar
 43 Energy Program;

(10) standards covering transferability, portability, and buy-out provisions for customers who participate in community solar energy projects; and

(11) any other requirements as adopted by the commission, including, but not limited to, requirements proposed by interested parties.

(D) Subject to review by the commission, a public utility must be entitled to full and timely cost recovery for all reasonable and prudent costs incurred in implementing and complying with this section. Participating customers shall bear the burden of any reasonable and prudent costs associated with participating in a neighborhood community solar program; however, the commission shall nonetheless ensure access to solar energy projects for low and moderate income customers pursuant to subsection (C)(6). An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section.”

SECTION 2. Article 7, Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58-27-845. (A) The General Assembly finds that there is a critical need to:

(1) protect customers from rising utility costs;

(2) provide opportunities for customer measures to reduce or manage electrical consumption from electrical utilities in a manner that contributes to reductions in utility peak electrical demand and other drivers of electrical utility costs; and

(3) equip customers with the information and ability to manage their electric bills.

(B) Every customer of an electrical utility has the right to a rate schedule that offers the customer a reasonable opportunity to employ such energy and cost saving measures as energy efficiency, demand response, or onsite distributed energy resources in order to reduce consumption of electricity from the electrical utility’s grid and to reduce electrical utility costs.

(C) In fixing just and reasonable utility rates pursuant to Section 58-3-140 and Section 58-27-810, the commission shall consider whether rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between cost incurred and benefits received, and that no one class of customers are unduly burdening another, and that each customer class pays, as close as practicable, the cost of providing service to them.

(D) For each class of service, the commission must ensure that each electrical utility offers to each class of service a minimum of

1 one reasonable rate option that aligns the customer's ability to
 2 achieve bill savings with long-term reductions in the overall cost the
 3 electrical utility will incur in providing electric service, including
 4 but not limited to time-variant pricing structures.

5 (E) Every customer of an electrical utility has a right to obtain
 6 their own electric usage data in a machine-readable, accessible
 7 format to the extent such is readily available. Electrical utilities shall
 8 allow customers an electronic means to assent to share the
 9 customer's energy usage data with a third-party vendor designated
 10 by the customer."

11
 12 SECTION 3. Section 58-40-10(C) of the 1976 Code is amended to
 13 read:

14
 15 "(C) 'Customer-generator' means the owner, operator, lessee, or
 16 customer-generator lessee of an electric energy generation unit
 17 which:

18 (1) generates or discharges electricity from a renewable
 19 energy resource, including an energy storage device configured to
 20 receive electrical charge solely from an onsite renewable energy
 21 resource;

22 (2) has an electrical generating system with a capacity of:

23 (a) not more than the lesser of one thousand kilowatts
 24 (1,000 kW AC) or one hundred percent of contract demand if a
 25 nonresidential customer; or

26 (b) not more than twenty kilowatts (20 kW AC) if a
 27 residential customer;

28 (3) is located on a single premises owned, operated, leased, or
 29 otherwise controlled by the customer;

30 (4) is interconnected and operates in parallel phase and
 31 synchronization with an electrical utility and complies with the
 32 applicable interconnection standards;

33 (5) is intended primarily to offset part or all of the
 34 customer-generator's own electrical energy requirements; and

35 (6) meets all applicable safety, performance, interconnection,
 36 and reliability standards established by the commission, the
 37 National Electrical Code, the National Electrical Safety Code, the
 38 Institute of Electrical and Electronics Engineers, Underwriters
 39 Laboratories, the federal Energy Regulatory Commission, and any
 40 local governing authorities."

41
 42 SECTION 4. Section 58-40-10 of the 1976 Code is amended by
 43 adding an appropriately lettered subsection at the end to read:

44

1 “() ‘Solar choice metering measurement’ means the process,
2 method, or calculation used for purposes of billing and crediting at
3 the commission determined value.”

4
5 SECTION 5. Section 58-40-20 of the 1976 Code is amended to
6 read:

7
8 ~~“Section 58-40-20. (A) Net energy metering rates approved by~~
9 ~~the commission under the terms of this chapter shall be the exclusive~~
10 ~~net energy metering rates available to customer generators. Upon~~
11 ~~commission approval, such net energy metering rates shall~~
12 ~~supersede all prior net energy metering rates. Customer generators~~
13 ~~whose net energy metering facilities were energized prior to the~~
14 ~~availability of net energy metering rates approved by the~~
15 ~~commission under the terms of this chapter may remain in historie~~
16 ~~net energy metering programs through December 31, 2020.~~

17 ~~(B) An electrical utility shall make net energy metering available~~
18 ~~to customer generators on a first come, first served basis until the~~
19 ~~total nameplate generating capacity of net energy metering systems~~
20 ~~equals two percent of the previous five year average of the electrical~~
21 ~~utility’s South Carolina retail peak demand. No electrical utility~~
22 ~~shall be required to approve any application for interconnection~~
23 ~~from net energy metering customer generators if the total rated~~
24 ~~generating capacity of all applications for interconnection from net~~
25 ~~energy metering customer generators already approved to date by~~
26 ~~the electrical utility equals or exceeds two percent of the previous~~
27 ~~five year average of the electrical utility’s South Carolina retail peak~~
28 ~~demand.~~

29 ~~(C) If determined to be prudent by the commission, the electrical~~
30 ~~utility may furnish, install, own, and maintain metering equipment~~
31 ~~needed to measure the kilowatt hours purchased by the~~
32 ~~customer generator from the utility, the kilowatt hours generated or~~
33 ~~delivered to the electrical utility, and, if applicable under the utility’s~~
34 ~~tariffs, to measure the kilowatt demand delivered by the electrical~~
35 ~~utility to the customer generator. The electrical utility shall have the~~
36 ~~right to install special metering and load research devices on the~~
37 ~~customer generator’s equipment and the right to use the~~
38 ~~customer generator’s communication devices for communication~~
39 ~~with electrical utility’s and the customer generator’s equipment.~~

40 ~~(D) The net electrical energy measurement shall be calculated in~~
41 ~~the following manner:~~

42 ~~(1) For a customer generator, an electrical utility shall measure~~
43 ~~the net electrical energy produced or consumed during the billing~~
44 ~~period in accordance with normal metering practices for customers~~
45 ~~in the same rate class, either by employing a single, bidirectional~~

1 meter that measures the amount of electrical energy produced and
2 consumed, or by employing multiple meters that separately measure
3 the customer generator's consumption and production of electricity;
4 (2) ~~If the electricity supplied by the electrical utility exceeds~~
5 ~~the electricity generated by the customer generator during a billing~~
6 ~~period, the customer generator shall be billed for the net electricity~~
7 ~~supplied by the electrical utility in accordance with normal practices~~
8 ~~for customers in the same rate class;~~
9 (3) ~~Any energy generated by the customer generator that~~
10 ~~exceeds the energy supplied by the electrical utility during a billing~~
11 ~~period shall not be used to offset the nonvolumetric electricity~~
12 ~~charges for that billing period;~~
13 (4) ~~The utility shall maintain an account of any net excess kWh~~
14 ~~credits accruing from the customer generator's excess generation~~
15 ~~and allow those kWh credits to be used to offset the~~
16 ~~customer generator's energy usage during future billing periods.~~
17 ~~Annually, the utility shall pay the customer generator for any~~
18 ~~accrued net excess generation at the utility's avoided cost for~~
19 ~~qualified facilities, zeroing out the customer generator's account of~~
20 ~~net excess kWh credits.~~
21 (E) ~~Each electrical utility shall submit an annual net metering~~
22 ~~report to the Public Service Commission, with a copy to the Office~~
23 ~~of Regulatory Staff, including the following information for the~~
24 ~~previous calendar year:~~
25 (1) ~~the total number of customer generator facilities;~~
26 (2) ~~the estimated gross generating capacity of its net-metered~~
27 ~~customer generators;~~
28 (3) ~~the estimated net kilowatt hours received from~~
29 ~~customer generators.~~
30 (F) ~~Any and all costs prudently incurred pursuant to the~~
31 ~~provisions of this chapter by an electrical utility as approved by the~~
32 ~~commission and any and all commission-approved benefits~~
33 ~~conferred by a customer generator shall be recoverable by each~~
34 ~~entity respectively in the electrical utility's rates in accordance with~~
35 ~~these provisions:~~
36 (1) ~~The electrical utility's general rates, tariffs, and any~~
37 ~~additional monthly charges or credits, in addition to any other~~
38 ~~charges or credits authorized by law, to recover the costs and confer~~
39 ~~the benefits of net energy metering shall include such measures~~
40 ~~necessary to ensure that the electrical utility recovers its cost of~~
41 ~~providing electrical service to customer generators and customers~~
42 ~~who are not customer generators.~~
43 (2) ~~Any charges or credits prescribed in item (1), and the terms~~
44 ~~and conditions under which they may be assessed shall be in~~
45 ~~accordance with a methodology established through the proceeding~~

described in item (4). The methodology shall be supported by an analysis and calculation of the relative benefits and costs of customer generation to the electrical utility, the customer generators, and those customers of the electrical utility that are not customer generators.

(3) Upon approval of the methodology provided for in item (4), each electrical utility shall file its analysis of the net cost to serve customer generators using the approved methodology and shall propose new net energy metering rates.

(4) No later than thirty days after the enactment of this act, the commission shall initiate a generic proceeding for purposes of implementing the requirements of this chapter with respect to the net energy metering rates, tariffs, charges, and credits of electrical utilities, specifically to establish the methodology to set any necessary charges and credits as required under items (1) and (2). All interested parties shall be allowed to participate. In its notice initiating such proceeding the commission must require the electrical utilities to propose methodologies required by item (1) and shall allow intervening parties to propose methodologies required by item (2). The Office of Regulatory Staff, pursuant to the requirements of Section 58-4-50, shall represent the public interest in this proceeding and shall serve as a facilitator to resolve disputes and issues between the parties to this proceeding.

(5) In evaluating the benefits and costs of customer generation as required by item (2), and the methodology for calculating such benefits and costs, the Office of Regulatory Staff may engage third parties with relevant prior experience conducting distributed generation cost-benefit studies. The cost of any experts and consultants engaged by the Office of Regulatory Staff for purposes of this proceeding shall be assessed to the electrical utilities pro rata based on their five-year average of retail peak demand and shall be recoverable by those electrical utilities through the base rate for fuel costs established pursuant to Section 58-27-865.

(6) In the event that the commission determines that future benefits from net energy metering are properly reflected in net metering rates because they provide quantifiable benefits to the utility system, its customers, or both, and to the degree such benefits are not then being recovered by the electrical utility in its base rates, then such future benefits shall be deemed an avoided cost and shall be recoverable pursuant to Section 58-27-865 by the electrical utility as an incremental cost of the distributed energy resource program.

(G) In no event shall the net energy metering provisions of this chapter be construed as allowing customer generators to engage in meter aggregation, group/joint billing projects, and/or virtual net metering.

1 ~~(H) The commission shall approve an electrical utility's proposed~~
 2 ~~net energy metering rates that meet the requirements of this chapter,~~
 3 ~~provided that the commission has previously approved that~~
 4 ~~electrical utility's application to participate in a distributed energy~~
 5 ~~resource program pursuant to Chapter 39, Title 58.~~

6 (A) It is the intent of the General Assembly to:

7 (1) build upon the successful deployment of solar generating
 8 capacity through the South Carolina Distributed Resource Act to
 9 continue enabling market-driven, private investment in distributed
 10 energy resources across the State by reducing regulatory and
 11 administrative burdens to customer installation and utilization of
 12 onsite distributed energy resources;

13 (2) avoid disruption to the growing market for customer-scale
 14 distributed energy resources; and

15 (3) require the commission to establish solar choice metering
 16 requirements that fairly allocate costs and benefits to eliminate any
 17 cost shift or subsidization associated with net metering to the
 18 greatest extent practicable.

19 (B) An electrical utility shall make net energy metering available
 20 to all customer-generators who apply before June 1, 2021 according
 21 to the terms and conditions provided to all parties in commission
 22 Order No. 2015-194. Customer-generators who apply for net
 23 metering after the effective date of this act but before June 1, 2021,
 24 including subsequent owners of the customer-generator facility or
 25 premises, may continue net energy metering service as provided for
 26 in commission Order No. 2015-194 until May 31, 2029.

27 (C) No later than January 1, 2020, the commission shall open a
 28 generic docket to:

29 (1) investigate and determine the costs and benefits of the
 30 current net energy metering program; and

31 (2) establish a methodology for calculating the value of the
 32 energy produced by customer-generators.

33 (D) In evaluating the costs and benefits of the net energy
 34 metering program, the commission shall consider:

35 (1) the aggregate impact of customer-generators on the
 36 electrical utility's long-run marginal costs of generation,
 37 distribution, and transmission;

38 (2) the cost of service implications of customer-generators on
 39 other customers within the same class, including evaluation of
 40 whether customer-generators provide an adequate rate of return to
 41 the electrical utility compared to the otherwise applicable rate class
 42 when, for analytical purposes only, examined as a separate class
 43 within a cost of service study;

1 (3) the value of distributed energy resource generation
2 according to the methodology approved by the commission in
3 commission Order No. 2015-194;
4 (4) the direct and indirect economic impact of the net energy
5 metering program to the State; and
6 (5) any other information the commission deems relevant.
7 (E) The value of the energy produced by customer-generators
8 must be updated annually and the methodology revisited every five
9 years.
10 (F) After notice and opportunity for public comment and public
11 hearing, the commission shall establish a new 'solar choice metering
12 tariff' for customer-generators to go into effect for applications
13 received after May 31, 2021. In establishing the successor solar
14 choice metering tariff, and in approving any future modifications,
15 the commission shall determine how meter information is used for
16 calculating the solar choice metering measurement that is just and
17 reasonable in light of the costs and benefits of the solar choice
18 metering program. The new solar choice metering tariff established
19 pursuant to this subsection shall include a methodology to
20 compensate customer-generators for the benefits provided by their
21 generation to the power system. In determining the appropriate
22 billing mechanism and energy measurement interval, the
23 commission shall consider:
24 (1) current metering capability and the cost of upgrading
25 hardware and billing systems to accomplish the provisions of the
26 tariff;
27 (2) the interaction of the tariff with time-variant rate
28 schedules available to customer-generators and whether different
29 measurement intervals are justified for customer-generators taking
30 service on a time-variant rate schedule;
31 (3) whether additional mitigation measures are warranted to
32 transition existing customer-generators; and
33 (4) any other information the commission deems relevant.
34 (G) In establishing a successor solar choice metering tariff, the
35 commission is directed to:
36 (1) eliminate any cost shift to the greatest extent practicable
37 on customers who do not have customer-sited generation while also
38 ensuring access to customer-generator options for customers who
39 choose to enroll in customer-generator programs; and
40 (2) permit solar choice customer-generators to use
41 customer-generated energy behind the meter without penalty.
42 (H) The commission shall establish a minimum guaranteed
43 number of years to which solar choice metering customers are
44 entitled pursuant to the commission approved energy measurement
45 interval and other terms of their agreement with the electrical utility.

(I) Nothing in this section, however, prohibits an electrical utility from continuing to recover distributed energy resource program costs in the manner and amount approved by commission Order No. 2015-914 for customer-generators applying before June 1, 2021. Such recovery shall remain in place until full cost recovery is realized. Electrical utilities are prohibited from recovering lost revenues associated with customer-generators who apply for customer-generator programs after June 1, 2021.”

SECTION 6. Section 58-27-2610 of the 1976 Code is amended to read:

“Section 58-27-2610. (A) An entity that owns a renewable electric generation facility, located on a premises or residence owned or leased by an eligible customer-generator lessee to serve the electric energy requirements of that particular premises or residence or to enable the customer-generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer-generator lessee’s retail electric provider or its designee, shall be permitted to lease such facility exclusively to a customer-generator lessee under a lease, provided that the entity complies with the terms, conditions, and restrictions set forth within this article and holds a valid certificate issued by the Office of Regulatory Staff. An entity owning renewable electric generation facilities in compliance with the terms of this article shall not be considered an ‘electrical utility’ under Section 58-27-10 if the renewable electric generation facilities are only made available to a customer-generator lessee for the customer-generator lessee’s use on the customer-generator lessee’s premises or the residence where the renewable electric generation facilities are located, or for the sale of energy to that customer-generator lessee’s retail electric provider or its designee, and pursuant to a lease.

~~(B) All customer-generator lessees that interconnect renewable electric generation facilities to a retail electric provider’s transmission or distribution system must enroll in the applicable rate schedules made available by that retail electric provider, subject to the participation limitations set forth therein or in the policy adopted by the retail electric provider not subject to Section 58-40-20(B), and the customer-generator lessee shall otherwise comply with all requirements of Section 58-40-10, et seq., or the policy adopted by the retail electric provider not subject to Section 58-40-10, et seq.~~

(C) To comply with the terms of this article, each customer-generator lessee renewable electric generation facility shall serve only one premises or residence, and shall not serve

1 multiple customer-generator lessees or multiple premises or
2 residences.

3 ~~(D)~~(C) Any lease of a renewable electric generation facility not
4 entered into pursuant to this article is prohibited. The owner of a
5 renewable electric generation facility subject to any lease entered
6 into outside of this program shall be considered an 'electrical utility'
7 under Section 58-27-10.

8 ~~(E)~~(D) This section shall not be construed as allowing any sales
9 of electricity from renewable electric generation facilities directly to
10 any customer of any retail electric provider by the owner. This
11 article shall not be construed as abridging or impairing any existing
12 rights or obligations, established by contract or statute, of retail
13 electric providers to serve South Carolina customers. The electrical
14 output from any renewable electric generation unit leased pursuant
15 to this program shall be the sole and exclusive property of the
16 customer-generator lessee.

17 ~~(F)~~(E) An entity and its affiliates that lawfully provide retail
18 electric service to the public may offer leases of renewable
19 generation facilities in those areas or territories where it provides
20 retail electric service. No such provider or affiliate shall offer or
21 enter into leases of renewable generation facilities in areas served
22 by another retail electric provider.

23 ~~(G)~~(F) The costs an electrical utility incurs in marketing,
24 installing, owning, or maintaining solar leases through its own
25 leasing programs as a lessor shall not be recovered from other
26 nonparticipating electrical utility customers through rates, provided,
27 however, that an electrical utility and the customer-generator lessees
28 which lease facilities from it may participate on an equal basis with
29 other lessors and lessees in any applicable programs provided
30 pursuant to Chapter 39 and nothing in this section shall prevent the
31 reasonable and prudent costs of a utility's distributed energy
32 resource programs, including the provision of incentives to its own
33 lessees and other allowable costs, from being reflected in a utility's
34 rates as provided for in Chapter 39 or as otherwise permitted under
35 generally applicable regulatory principles.

36 ~~(H) The total installed capacity of all renewable electric~~
37 ~~generation facilities on a retail electric provider's system that are~~
38 ~~leased pursuant to this article shall not exceed two percent of the~~
39 ~~previous five year average of the retail electric provider's South~~
40 ~~Carolina residential and commercial contribution to coincident~~
41 ~~retail peak demand and two percent of the previous five year~~
42 ~~average of the retail electric provider's South Carolina industrial~~
43 ~~contribution to coincident retail peak demand. A provider may~~
44 ~~refuse to interconnect with customers where to do so would result~~
45 ~~in this limitation being exceeded. Every retail electric provider must~~

1 ~~establish a program for new installations of leased equipment to~~
 2 ~~permit the reservation of capacity on its system including provisions~~
 3 ~~to prevent or discourage abuse of such programs. Such programs~~
 4 ~~must provide that only prospective individual customer-generator~~
 5 ~~lessees may apply for, receive, and hold reservations. Each~~
 6 ~~reservation shall be for a single customer premises only and may not~~
 7 ~~be sold, exchanged, traded, or assigned except as part of the sale of~~
 8 ~~the underlying premises. Requests for reservations to electrical~~
 9 ~~utilities as defined in Section 58-27-10 shall accompany~~
 10 ~~applications for interconnection of the leased facilities pursuant to~~
 11 ~~Chapter 40, Title 58 and the reservation shall remain in force only~~
 12 ~~so long as the application or permit for interconnection remains~~
 13 ~~active. Electrical utilities as defined in Section 58-27-10 shall~~
 14 ~~submit programs establishing the terms of such reservations to the~~
 15 ~~commission for approval.~~

16 ~~(I) Notwithstanding the provisions of subsection (H), for an~~
 17 ~~electrical utility for which more than fifty percent of the electricity~~
 18 ~~that it generates in South Carolina comes from renewable resources,~~
 19 ~~the total installed capacity of all renewable electric generation~~
 20 ~~facilities on its system that are leased pursuant to this article shall~~
 21 ~~not exceed one-tenth of one percent of the previous five-year~~
 22 ~~average of the electrical utility's South Carolina residential and~~
 23 ~~commercial contribution to coincident retail peak demand and~~
 24 ~~one-tenth of one percent of the previous five-year average of the~~
 25 ~~electrical utility's South Carolina industrial contribution to~~
 26 ~~coincident retail peak demand. Electrical utilities meeting the~~
 27 ~~requirements of this subsection shall not be required to establish a~~
 28 ~~capacity reservation program as required by subsection (H).~~

29 ~~(F)(G)(1) The provisions of this Article 23 related to leased~~
 30 ~~generation facilities shall not apply to:~~

31 ~~(a) facilities serving a single premises that are not~~
 32 ~~interconnected with a retail electric provider;~~

33 ~~(b) facilities owned by customer-generators but financed~~
 34 ~~by a third party; or~~

35 ~~(c) facilities used exclusively for standby emergency~~
 36 ~~service or participation in an approved standby generation program~~
 37 ~~operated by a retail electric provider.~~

38 ~~(2) The commission may promulgate regulations consistent~~
 39 ~~with this section interpreting the scope of these exemptions as to~~
 40 ~~electrical utilities."~~

41
 42 SECTION 7. Chapter 37, Title 58 of the 1976 Code is amended by
 43 adding:
 44

1 “Section 58-37-60. (A) The commission, in coordination with
 2 the Office of Regulatory Staff, is authorized to initiate an
 3 independent study to evaluate the integration of renewable energy
 4 and emerging energy technologies into the electric grid for the
 5 public good. An integration study conducted pursuant to this section
 6 shall evaluate what is required for electrical utilities to integrate
 7 increased levels of renewable energy and emerging energy
 8 technologies while maintaining economic, reliable, and safe
 9 operation of the electricity grid in a manner consistent with the
 10 public good. Studies shall be based on the balancing areas of each
 11 electrical utility. A steering committee of interested stakeholders
 12 may be established to select the study consultant and participate in
 13 discussion about the development of the report. The results of the
 14 independent study shall be reported to the General Assembly.

15 (B) The commission may require regular updates from utilities
 16 regarding the implementation of renewable energy.

17 (C) The commission may hire or retain a consultant to assist with
 18 the independent study authorized by this section. The commission
 19 is exempt from complying with the State Procurement Code in the
 20 selection and hiring of the consultant authorized by this subsection.”

21

22 SECTION 8. Section 58-37-40 of the 1976 Code is amended to
 23 read:

24

25 ~~“Section 58-37-40. (A) Electrical utilities and the South~~
 26 ~~Carolina Public Service Authority must prepare integrated resource~~
 27 ~~plans. The South Carolina Public Service Authority and electrical~~
 28 ~~utilities regulated by the Public Service Commission must submit~~
 29 ~~their plans to the State Energy Office. The plan submitted by the~~
 30 ~~South Carolina Public Service Authority must be developed in~~
 31 ~~consultation with electric cooperatives and municipally-owned~~
 32 ~~electric utilities purchasing power and energy from the authority and~~
 33 ~~must include the effect of demand-side management activities of~~
 34 ~~electric cooperatives and municipally-owned electric utilities which~~
 35 ~~directly purchase power and energy from the authority or sell power~~
 36 ~~and energy which the authority generates. All plans must be~~
 37 ~~submitted every three years and must be updated on an annual basis.~~
 38 ~~The first integrated resource plan of the South Carolina Public~~
 39 ~~Service Authority must be submitted no later than June 30, 1993.~~
 40 ~~An integrated resource plan may be patterned after the integrated~~
 41 ~~resource planning process developed by the Public Service~~
 42 ~~Commission. For electrical utilities subject to the jurisdiction of the~~
 43 ~~commission, submission of their plans as required by the~~
 44 ~~commission constitutes compliance with this section. Nothing in~~
 45 ~~this subsection may be construed as requiring interstate natural gas~~

1 ~~companies whose rates and services are regulated only by the~~
 2 ~~federal government or gas utilities subject to the jurisdiction of the~~
 3 ~~South Carolina Public Service Commission to prepare and submit~~
 4 ~~an integrated resource plan. Each electrical utility must prepare~~
 5 ~~integrated resource plans consistent with this section and rules~~
 6 ~~adopted by the commission. All comprehensive plans must be~~
 7 ~~prepared and submitted to the commission at least every three years~~
 8 ~~and must be updated on an annual basis in interim years. Nothing in~~
 9 ~~this subsection may be construed as requiring interstate natural gas~~
 10 ~~companies whose rates and services are regulated only by the~~
 11 ~~federal government or gas utilities subject to the jurisdiction of the~~
 12 ~~commission to prepare and submit an integrated resource plan.~~

13 (B) ~~Electric~~ Electrical cooperatives and ~~municipally-owned~~
 14 ~~electric municipally owned electrical~~ utilities ~~must~~ shall submit
 15 integrated resource plans to the State Energy Office whenever they
 16 are required by federal law to prepare these plans or if they plan to
 17 acquire, by purchase or construction, ownership of additional
 18 generating capacity greater than twelve megawatts per unit. An
 19 integrated resource plan must be submitted to the State Energy
 20 Office by an ~~electric~~ electrical cooperative or ~~municipally-owned~~
 21 ~~electric municipally owned electrical~~ utility twelve months before
 22 the acquisition, by purchase or construction, of additional
 23 generating capacity in excess of twelve megawatts per unit. For an
 24 ~~electric~~ electrical cooperative, submission to the State Energy Office
 25 of its plan in a format complying with the then current Rural
 26 ~~Electrification Administration United States Department of~~
 27 ~~Agriculture's Rural Utilities Service~~ regulations constitutes
 28 compliance with this section.

29 (C) ~~The State Energy Office, to the extent practicable, shall~~
 30 ~~evaluate and comment on external environmental and economic~~
 31 ~~consequences of each integrated resource plan submitted and on the~~
 32 ~~environmental and economic consequences for suppliers and~~
 33 ~~distributors. The South Carolina Public Service Authority shall~~
 34 ~~prepare integrated resource plans that must be submitted to the State~~
 35 ~~Energy Office. These plans must be developed in consultation with~~
 36 ~~the electric cooperatives and municipally owned electrical utilities~~
 37 ~~purchasing power and energy from the authority and consider any~~
 38 ~~feedback provided by retail customers and shall include the effect~~
 39 ~~of demand-side management activities of the electric cooperatives~~
 40 ~~and municipally owned electrical utilities that directly purchase~~
 41 ~~power and energy from the authority or sell power and energy~~
 42 ~~generated by the authority. All plans must be submitted every three~~
 43 ~~years and must be updated on an annual basis.~~

44 (D) ~~The State Energy Office shall coordinate the preparation of~~
 45 ~~an integrated resource plan for the State and shall coordinate with~~

1 regional groups, including the Southern States Energy Board. An
2 integrated resource plan shall include all of the following:
3 (1) a long-term forecast of the utility's sales and peak demand
4 under various reasonable scenarios;
5 (2) the type of generation technology proposed for a
6 generation facility contained in the plan and the proposed capacity
7 of the generation facility, including fuel cost sensitivities under
8 various reasonable scenarios;
9 (3) projected energy purchased or produced by the electrical
10 utility from a renewable energy resource;
11 (4) a summary of the electrical transmission investments
12 planned by the electrical utility;
13 (5) several resource portfolios developed with the purpose of
14 fairly evaluating the range of demand-side, supply-side, storage, and
15 other technologies and services available to meet the utility's service
16 obligations. Such portfolios and evaluations must include an
17 evaluation of low, medium, and high cases for the adoption of
18 renewable energy and cogeneration, energy efficiency, and demand
19 response measures, including consideration of the following:
20 (a) customer energy efficiency and demand response
21 programs;
22 (b) facility retirement assumptions; and
23 (c) sensitivity analyses related to fuel costs, environmental
24 regulations, and other uncertainties or risks;
25 (6) data regarding the utility's current generation portfolio,
26 including the age, licensing status, and remaining estimated life of
27 operation for each facility in the portfolio;
28 (7) plans for meeting current and future capacity needs with
29 the cost estimates for all proposed resource portfolios in the plan;
30 (8) an analysis of the cost and reliability impacts of all
31 reasonable options available to meet projected energy and capacity
32 needs; and
33 (9) a forecast of the utility's peak demand and details
34 regarding the amount of peak demand reduction the utility expects
35 to achieve and the actions the utility proposes to take in order to
36 achieve that peak demand reduction.
37 ~~(E) The State Energy Office must not exercise any regulatory~~
38 ~~authority with regard to the requirements set forth in this chapter.~~
39 The integrated resource plan may include distribution resource plans
40 or integrated system operation plans.
41 (F) At least every three years coincident with the utilities'
42 comprehensive integrated resource plan filings, the commission
43 shall review each integrated resource plan in a separate commission
44 proceeding. As part of the comprehensive integrated resource plan
45 filings, the commission shall allow intervention by interested

1 persons including electrical customers of the utility, independent
 2 power producers, and other parties accepted by the commission. The
 3 commission shall establish a procedural schedule to permit
 4 reasonable discovery after an integrated resource plan is filed in
 5 order to assist parties in obtaining evidence concerning the
 6 integrated resource plan, including, to, the reasonableness and
 7 prudence of the plan and alternatives to the plan raised by
 8 intervening parties. Not later than three hundred days after an
 9 electrical utility files an integrated resource plan under this section,
 10 the commission shall issue a final order approving, modifying or
 11 denying the plan filed by the electrical utility.

12 (G) In the interim integrated resource plan update years between
 13 comprehensive integrated resource plan filings, the utilities shall
 14 revise their base planning assumptions relative to their most recently
 15 accepted resource plan and present the impacts those changes had
 16 on the selected resource plan. At a minimum, the utility shall update
 17 its energy and demand forecast, commodity fuel price inputs, the
 18 utilities' renewable energy forecast, their energy efficiency and
 19 demand-side management forecasts, any changes to projected
 20 retirement dates of the utilities' existing units along with other
 21 inputs the commission deems to be for the public good. The Office
 22 of Regulatory Staff shall review the updates and submit a report to
 23 the commission providing a recommendation concerning the
 24 reasonableness of the updated resource plan. Following the filing
 25 of the updated integrated resource plan and the Office of Regulatory
 26 Staff report, the commission may accept the updated integrated
 27 resource plan or direct the utility to make changes to the updated
 28 resource plan that the commission determines to be for the public
 29 good.

30 (H) The commission shall accept an integrated resource plan if
 31 the commission determines that the proposed integrated resource
 32 plan represents the most reasonable and prudent means of meeting
 33 the electrical utility's energy and capacity needs as of the time the
 34 plan is reviewed. To determine whether the integrated resource plan
 35 is the most reasonable and prudent means of meeting energy and
 36 capacity needs, the commission, in its discretion, shall consider
 37 whether the plan appropriately balances the following factors:

38 (1) resource adequacy and capacity to serve anticipated peak
 39 electrical load, and applicable planning reserve margin;

40 (2) consumer affordability and least cost;

41 (3) compliance with applicable state and federal
 42 environmental regulations;

43 (4) power supply reliability;

44 (5) commodity price risks;

45 (6) diversity of generation supply; and

1 (7) other foreseeable conditions that the commission
 2 determines to be for the public good.

3 (I) If the commission modifies or rejects an electrical utility's
 4 integrated resource plan, the electrical utility, within sixty days after
 5 the date of the final order, shall submit a revised plan addressing
 6 concerns identified by the commission and incorporating
 7 commission mandated revisions to the integrated resource plan to
 8 the commission for approval. Within sixty days of the utility's
 9 revised filing, the Office of Regulatory Staff shall review the
 10 utility's revised plan and submit a report to the commission
 11 assessing the sufficiency of the revised filing. Other parties to the
 12 IRP proceeding also may submit comments. Not later than sixty
 13 days after the Office of Regulatory Staff report is filed with the
 14 commission, the commission at its discretion may determine
 15 whether to accept the revised integrated resource plan or to mandate
 16 further remedies that the commission deems appropriate and for the
 17 public good.

18 (J) The submission, review, and acceptance of an IRP, or the
 19 inclusion of any specific resource or experience in an accepted IRP,
 20 shall not be determinative of the reasonableness or prudence of the
 21 acquisition or construction of any resource or the making of any
 22 expenditure and the electrical utility shall retain the burden of proof
 23 to show that all of its investments and expenditures are reasonable
 24 and prudent when seeking cost recovery in rates."

25
 26 SECTION 9. Section 58-33-110 of the 1976 Code is amended by
 27 adding an appropriately numbered item at the end to read:

28
 29 "(a) A person may not commence construction of a major
 30 utility facility for generation in the State of South Carolina without
 31 first having made a demonstration that the facility to be built has
 32 been compared to other generation options in terms of cost,
 33 reliability, and any other regulatory implications deemed legally or
 34 reasonably necessary for consideration by the commission. The
 35 commission is authorized to adopt rules for such evaluation of other
 36 generation options.

37 (b) The commission may, upon a showing of a need, require
 38 a commission-approved process that includes:

39 (i) the assessment of an unbiased independent evaluator
 40 retained by the Office of Regulatory Staff as to reasonableness of
 41 any certificate sought under this section for new generation;

42 (ii) a report from the independent evaluator to the
 43 commission regarding the transparency, completeness, and integrity
 44 of bidding processes, if any;

(iii) a reasonable period for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, if any, prior to finalization and issuance, subject to any trade secrets that could hamper future negotiations; however, the independent evaluator may access all such information;

(iv) independent evaluator access and review of final bid evaluation criteria and pricing information for any and all projects to be evaluated in comparison to the request for proposal bids received;

(v) access through discovery, subject to appropriate confidentiality, attorney client privilege or trade secret restrictions, for parties to this proceeding to documents developed in preparing the certificate of public convenience and necessity application;

(vi) a demonstration that the facility is consistent with an integrated resource plan approved by the commission; and

(vii) treatment of utility affiliates in the same manner as nonaffiliates participating in the request for proposal process.”

SECTION 10. Section 58-27-460 of the 1976 Code is amended to read:

“Section 58-27-460. (A)(1) The commission shall promulgate and periodically review standards for interconnection of renewable energy facilities and other nonutility-owned generation and parallel operation of generating facilities with a generation capacity of two thousand kilowatts (2,000 kW AC) eighty megawatts (80 MW AC) or less to an electrical utility’s distribution and transmission system where:

(a) the generating facility is a qualifying facility under PURPA and is precluded from selling any portion of the output of its generating facility to an entity other than the electrical utility to which it is interconnecting; or

(b) the generating facility is not a qualifying facility under PURPA and is interconnected to a ‘first use’ distribution facility of the utility.

Each electrical utility shall implement such standards in a fair, nondiscriminatory manner.

(2) The commission shall, within six months of the effective date of the amendments to this section, establish proceedings for the purpose of considering revisions to the standards promulgated pursuant to this section. In developing such revisions, the commission may consider any issue, which, in the exercise of its discretion, the commission deems relevant to improving the fairness and effectiveness of the procedures.

1 (3) In implementing item (1), the commission shall ensure
 2 such standards provide for efficient and timely processing of
 3 interconnection requests and take into account the impact of
 4 generator interconnection on electrical utility system assets, service
 5 reliability, and power quality. Such standards shall address the
 6 impact of the addition of energy storage and the interconnection
 7 processes for amending existing interconnection requests to include
 8 energy storage. The commission shall enact standards that are fair,
 9 reasonable, nondiscriminatory with respect to interconnection
 10 applicants, other utility customers, and electrical utilities, and the
 11 standards shall serve the public good in terms of overall cost and
 12 system reliability.

13 (B) ~~No customer-generator or customer-generator lessee~~
 14 ~~generating facility shall connect or operate an electric generation~~
 15 ~~unit in parallel phase and synchronization with any electrical utility~~
 16 ~~without written approval by the electrical utility that all of the~~
 17 ~~commission's requirements have been met. For a~~
 18 ~~customer-generator or customer-generator lessee who generating~~
 19 ~~facility that violates this provision, an electrical utility immediately~~
 20 ~~may and without notice disconnect the electric facilities of the~~
 21 ~~customer-generator or customer-generator lessee and terminate the~~
 22 ~~customer-generator's or customer-generator lessee's generating~~
 23 ~~facility electric service.~~

24 (C) In the event of a dispute between an interconnection
 25 customer and the electrical utility on an issue relating to
 26 interconnection, the parties first shall attempt to resolve the claim or
 27 dispute using any dispute resolution procedures provided for
 28 pursuant to the applicable interconnection standards promulgated by
 29 the commission. If the parties are unable to resolve such claim or
 30 dispute using those procedures, then either party may petition the
 31 commission for resolution of the dispute including, but not limited
 32 to, a determination of the appropriate terms and conditions for
 33 interconnection. The commission shall resolve such disputes within
 34 six months from the filing of the petition in accordance with the
 35 terms of applicable state and federal law.

36 (D) Each electrical utility shall comply with the South Carolina
 37 generator interconnection procedures and all commission-approved
 38 agreements regarding interconnection practices and reporting
 39 requirements. The commission shall establish reasonable guidelines
 40 to ensure reasonable interconnection timelines, including time
 41 requirements to deliver a final system impact study to all
 42 interconnection customers that execute a system impact study
 43 agreement prior to three months after the effective date of this act.
 44 The commission shall consider implementation of additional

1 performance incentives and enforcement mechanisms for electrical
 2 utilities to ensure compliance with this requirement.”

3
 4 SECTION 11. Chapter 4, Title 58 of the 1976 Code is amended
 5 by adding:

6
 7 “Section 58-4-140. (A)(1) The Office of Regulatory Staff, in
 8 collaboration with the Department of Consumer Affairs, is directed
 9 to develop consumer protection regulations. These regulations shall
 10 provide for the appropriate disclosure provided by sellers and
 11 lessors. Sellers must comply with Title 37. Nothing herein alters
 12 existing protections afforded by Title 37.

13
 14 (2) To fulfill the duties and responsibilities provided for in
 15 this section, the Office of Regulatory staff shall develop a formal
 16 complaint process as part of the consumer protection regulations.

17 (B) The Office of Regulatory Staff is authorized to enforce any
 18 applicable consumer protection provision set forth in this title by:

19 (1) conducting an investigation into an alleged violation;
 20 (2) issuing a cease and desist order against a further violation;
 21 (3) imposing an administrative fine not to exceed two
 22 thousand five hundred dollars per violation on a solar company that
 23 materially fails to comply with the consumer protection
 24 requirements; and

25 (4) voiding the agreement if necessary to remedy the violation
 26 or violations.”

27
 28 SECTION 12. All costs incurred by the utility necessary to
 29 effectuate this act, that are not precluded from recovery by other
 30 provisions of this act and that do not have a recovery mechanism
 31 otherwise specified in other provisions of the act or established by
 32 state law, shall be deferred for commission consideration of
 33 recovery in any proceeding initiated under Section 58-27-870, if
 34 deemed reasonable and prudent.

35
 36 SECTION 13. Notwithstanding another provision of this act, or
 37 another provision of law, no costs or expenses incurred nor any
 38 payments made by the electrical utility in compliance or in
 39 accordance with this act must be included in the electrical utility’s
 40 rates or otherwise be borne by the general body of South Carolina
 41 retail customers of the electrical utility without an affirmative
 42 finding supported by the preponderance of evidence of record and
 43 conclusion in a written order by the Public Service Commission that
 44 such expense, cost or payment was reasonable and prudent and

1 made in the best interest of the electrical utility's general body of
2 customers.

3

4 SECTION 14. The provisions of this act are severable. If any
5 section, subsection, paragraph, subparagraph, item, subitem,
6 sentence, clause, phrase, or word of this act is for any reason held to
7 be unconstitutional or invalid, such holding shall not affect the
8 constitutionality or validity of the remaining portions of the act, the
9 General Assembly hereby declaring that it would have passed each
10 and every section, subsection, paragraph, subparagraph, item,
11 subitem, sentence, clause, phrase, and word thereof, irrespective of
12 the fact that any one or more other sections, subsections, paragraphs,
13 subparagraphs, items, subitems, sentences, clauses, phrases, or
14 words hereof may be declared to be unconstitutional, invalid, or
15 otherwise ineffective.

16

17 SECTION 15. This act takes effect upon approval by the
18 Governor.

19

----XX----

20